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7 BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

8 In the Matter of the Appeal of:

) Hearing Examiner File:

9) **MUP-12-016(W)**

10 **BRUCE STRUTHERS**

) DECLARATION OF LUCAS

11 from a SEPA decision issued by the Director,
Department of Planning and Development

) DEHERRERA

12)
13)
14 I, LUCAS DEHERRERA, do hereby declare:

- 15 1. I am a Senior Land Use Planner for the City of Seattle Department of Planning and
16 Development (DPD). I make this declaration based on personal knowledge
- 17 2. Attached hereto as Exhibit A is a true and correct copy of the City of Seattle Analysis
18 and Substantive Conditioning of the Director of the Department of Planning and
19 Development, DPD Project No. 3013236, dated June 14, 2012.
- 20 3. DPD has never received a request from the Appellant in this case, Bruce Struthers, for a
21 land use interpretation under SMC ch. 23.88 regarding the correctness of the
22 Environmentally Critical Areas (ECA) exemption granted by Seattle Public Utilities
23 for the Meadowbrook Pond Detention Facility Dredging and Improvements Project

1 (the "Project"), nor has the Director of DPD issued any land use interpretation under
2 SMC ch. 23.88 regarding that exemption. The Appellant has never paid DPD the fee
3 that would apply for obtaining a land use interpretation under SMC ch. 23.88
4 regarding the ECA exemption for the Project.

5 4. DPD also has never received a request from the Appellant for a land use interpretation
6 under SMC ch. 23.88 regarding whether the Project required a shoreline substantial
7 development permit, nor has the Director of DPD issued any land use interpretation
8 under SMC ch. 23.88 on that issue. The Appellant has never paid DPD the fee that
9 would apply for obtaining such a land use interpretation.

10 5. DPD also has never received a request from the Appellant for a land use interpretation
11 under SMC ch. 23.88 regarding the Project's compliance with SMC ch. 25.11, nor
12 has the Director of DPD issued any land use interpretation under SMC ch. 23.88 on
13 that issue. The Appellant has never paid DPD the fee that would apply for obtaining
14 such a land use interpretation.

15 6. Attached hereto as Exhibit B is a true and correct copy of page 154 of the City of Seattle
16 State of the Waters 2007 report.

17 7. DPD has not yet reviewed the Project's compliance with SMC ch. 25.06. DPD will
18 review that issue in connection with the pending building permit application.

19 I declare under penalty of perjury under the laws of the State of Washington that the
20 foregoing is true and correct.

21 Executed this 15th day of August, 2012, at Seattle, Washington.

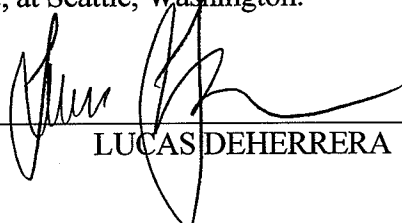
22 
23 LUCAS DEHERRERA

EXHIBIT A



City of Seattle

Department of Planning and Development
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND SUBSTANTIVE CONDITIONING OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT

DPD Project Number: 3013236
Applicant Name: Greg Stevens of Seattle Public Utilities
Address of Proposal: 3600 NE 105th St

SUMMARY OF PROPOSED ACTION

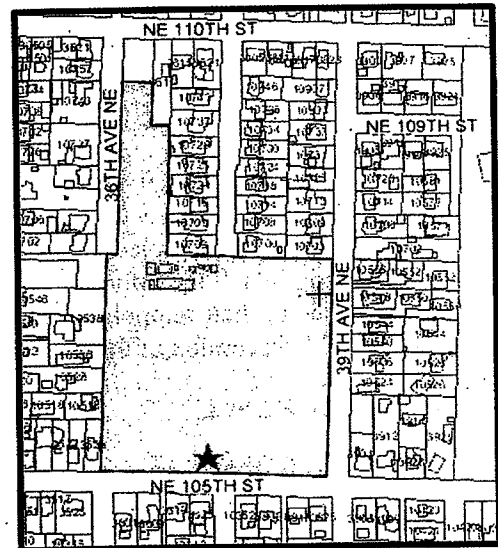
Land Use Application to allow a 10% capacity expansion (1.5 million gallons) of an existing utility service use in a public facility (Meadowbrook Pond). Review includes 9,700 cu. yds. of dredging, removal of 10,000 cu. yds. of material (expansion area), new access ramps and widened access routes. Determination of Non-Significance prepared by Seattle Public Utilities.¹

The following approval is required:

SEPA – Chapter 25.05 Seattle Municipal Code (substantive conditioning)¹

BACKGROUND, SITE AND PROPOSAL

Meadowbrook Pond is a constructed storm water management facility that collects and detains a portion of the flows from Thornton Creek in order to reduce downstream flooding, streambed scouring, and sediment deposition in Lake Washington. This project would dredge accumulated sediment in all areas of Meadowbrook Pond (Pond) as it exists now, enlarge the Pond, improve trash removal at the inlet to the high flow bypass pipe, improve employee access and safety, and improve Pond habitat. The project would not alter any flow control features affecting Thornton Creek or the Pond, including the inlet to the high flow bypass pipe, the Pond entrance dike, the Pond outlet, or the Pond structure that overflows to the high flow bypass pipe.



¹ DNS published by SPU in March of 2012.

Specific improvements would include:

- Dredge the Pond forebay to its original sediment storage design specifications;
- Construct two new service roads to the forebay to improve service vehicle access;
- Modify the existing forebay trash rack to improve employee safety by demolishing the existing stairway and concrete platform, installing a new service walkway, and installing a new concrete pedestal to create access to the new walkway;
- Dredge all three cells of the Pond to their original sediment storage design specifications;
- Expand the Pond volume by approximately 10 percent by excavating approximately 10,600 cu. yds. from the northwest corner of the Facility, constructing a service road into this new lobe, and constructing a flood control berm (north berm) along the north perimeter of the Pond. The existing entrance kiosk and the dogwood trees comprising Annie's Memorial tree grove would be relocated to other locations on the project parcel;
- Install permanent sediment depth gages in all Pond cells;
- Improve habitat conditions in the Pond by planting native vegetation around the perimeters of the Pond and islands;
- Improve habitat conditions in the Pond by installing five floating habitat islands;
- Add a second trash rack at the inlet to the high flow bypass pipe, a new concrete slab and two walls to accommodate the new trash rack, a new service walkway, and a new service ladder;
- Modify pedestrian and service vehicle access to the existing bypass trash rack and inlet structure to improve worker safety by widening existing asphalt pathways to 15 feet wide and adding safety features such as railings at the bypass trash rack and inlet structure.

Public Comment

The public comment period for this proposal ended on April 18th, DPD received no comment.

ANALYSIS - SEPA

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and Seattle's SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

Disclosure of the potential impacts from this project is made in the environmental checklist submitted by the applicant dated February 29th, 2012. DPD has analyzed the environmental checklist, reviewed the project plans and the supporting information in the file and referenced by SPU. As indicated in the information, this action may result in some impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant. A discussion of these impacts, short and long term, is warranted.

Short - Term Impacts

Construction Impacts

Construction activities (grading/dredging) for the project could result in the following adverse impacts: construction dust, emissions from construction machinery and vehicles, increased particulate levels, increased noise levels, occasional disruption of adjacent vehicular and pedestrian traffic, and a small increase in traffic and parking impacts due to construction workers' vehicles.

Several constructions related impacts are mitigated by existing City codes and ordinances applicable to the project, such as: Noise Ordinance; Street Use Ordinance; Grading and Drainage Code; Environmentally Critical Areas Ordinance, Land Use Code and Building Code. Following is an analysis of the applicable City Regulations.

The Street Use Ordinance includes regulations that mitigate dust, mud, and circulation. Temporary closure of sidewalks and/or traffic lane(s) is adequately controlled with a street use permit (if required) through the Seattle Department of Transportation.

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant. As a result no conditioning is necessary related to these specific activities.

SPU currently maintains a website with an available email list serve for the project to inform the public of progress and specific construction phases. There will be an informational flier distributed to the surrounding residents with pertinent information prior to construction. To ensure the fliers are distributed prior to construction and allowing residents to plan around the planned construction, SEPA conditioning is warranted (condition #1). The website will also provide the project manager's contact information for surrounding residents to communicate with the contractor during the construction process.

An impact not always addressed in other City Codes is related to particulate dust caused by excavation. Considering the 10,600 cu. yds. of excavation for pond expansion in concert with the fact that trucks will be maneuvering near or on the site, SEPA conditioning is warranted to mitigate the impact of dust/grade particulates in the air and onto the street system (SMC 25.05.675-B.2). Repeated wetting of the soils during grading activities and of uncovered trucks to keep dirt and dust impacts to a minimum is required (condition #2). Further, to mitigate particulates being transferred from the construction site to the surrounding street system, wheel washing facilities for trucks leaving the site is required (condition #3).

Construction is expected to temporarily add some particulates to the air and will result in a slight increase in auto-generated air contaminants from construction worker vehicles; however, this increase is not anticipated to be significant. Federal auto emission controls are the primary means of mitigating air quality impacts from motor vehicles as stated in the Air Quality Policy (SMC 25.05.675-A.2).

Construction Noise

Noise associated with the heavy construction processes and overall length (approximately 80 days) of the proposed construction process could adversely affect surrounding properties in the area, which include many single family residential uses and some institutional uses. Due to the proximity of the project site to these uses, DPD finds the limitations of the Noise Ordinance to be inadequate to mitigate the potential noise impacts to surrounding residential uses. Pursuant to the SEPA Overview Policy (SMC 25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675-B.2), conditioning is warranted to limit construction days and hours (condition #4).

The hours of all major construction work should be limited to between 7:00 AM – 7:00 PM on non-City holiday (pursuant to SMC 25.08.155) weekdays and between 8:00 AM – 6:00 PM on

Saturdays. Emergency or necessary work may be allowed if prior approval is secured from the undersigned Land Use Planner or DPD's noise abatement team.

Emergency or necessary work hours are limited to emergency construction necessitated by safety concerns, project complication or work which would substantially shorten the overall construction timeframe. Such limited alternate work hours will be considered only when the contractor provides three (3) days prior notice to allow DPD to evaluate the request. DPD will require an email be sent to the project's citizen email list to inform surrounding residents of the construction work and posting on the project outreach website. Work of low noise impact; landscaping activity which does not require use of heavy equipment (e.g., planting, work by hand, site recon) would be permitted as allowed under the Noise Ordinance.

Construction Vehicles

Existing City code (SMC 11.62) requires truck activities to use arterial streets within the City to every extent possible. Prior to construction approval SDOT will review and approve a specific traffic control plan for the proposed project, therefore, no conditioning is necessary from DPD.

City code (SMC 11.74) provides that material hauled in trucks not be spilled during transport. The City requires that a minimum of one foot of "freeboard" (area from level of material to the top of the truck container) be provided in loaded uncovered trucks, which minimizes the amount of spilled material and dust from the truck bed en route to or from a site.

Traffic and Construction Worker Parking

Most staging and worker parking should be accommodated on site, although there isn't a street parking shortage around the site. No conditioning is necessary. Worker parking is anticipated to be able to be accommodated on site or easily within the street system.

The completed project will have no traffic impact on the area.

Long - Term Impacts

The following long-term or use-related impacts, slight increase in demand on public services and utilities; and increased energy consumption are not considered adverse; furthermore, other City Departments will review in detail the service requirements needed to meet the project impacts/demand.

Environmentally Critical Areas (ECA)

SPU executed an ECA exemption for the project, so the project is exempt from the requirements of the ECA chapter. The exemption is on file with SPU and in the project file at DPD.

Air Quality, Water Quality and Environmental Health

Operational activities, primarily vehicular trips associated with the project and the projects' energy consumption, are expected to result in small increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively small contribution of greenhouse gas emissions from this project due to its

function and nature. SPU analyzed the project for greenhouse gases; the Green House Gas worksheet is located at the end of the SEPA Checklist.

Summary

Meeting the conditions stated below and analyzed above, the project will be consistent with applicable SEPA policies.

CONDITIONS – SEPA

Prior to Commencement of Construction

1. Send out the informational flier to neighboring properties as indicated in the correction response made to DPD dated 5.24.2012, which is located in the project file.

During Construction

The following conditions to be enforced during construction shall be posted at each street abutting the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. The conditions shall be affixed to placards prepared by DPD. The placards will be issued along with the building/grading permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

2. During grading activities, watering of the site and uncovered materials in trucks shall be required to reduce construction dust/particulates.
3. The contractor shall make provisions to wash vehicle tires, wheels and exteriors leaving the site in order to prevent spillover of particulates into the adjacent rights of way.
4. The hours of all major construction work should be limited to between 7:00 AM – 6:00 PM on non-City holiday (pursuant to SMC 25.08.155) weekdays and between 8:00 AM – 6:00 PM Saturdays. Emergency or necessary work may be allowed if prior approval is secured from the undersigned Land Use Planner or DPD's noise abatement team.

Alternate work hours if allowed will be limited to emergency construction necessitated by safety concerns, project complication, work of low noise impact; landscaping activity which does not require use of heavy equipment (e.g., planting), or work which would substantially shorten the overall construction timeframe. Such limited alternate work hours will be considered only when the contractor provides three (3) days prior notice to allow DPD to evaluate the request to the undersigned Planner or Noise Abatement Team (Land Use Planner (Lucas DeHerrera 206.615.0724) or the Noise Abatement Team (David George 206.684.7843 or Jeff Stalter 206.615.1760). DPD will require the website to be updated and an email be sent to the project's email list to inform surrounding residents of the construction work and may require further mitigation depending on public comments through the construction process.

 = Major construction work not permitted

	Work Hours						
	Sun	Mon	Tues	Wed	Thurs	Fri	Sat
7:00 am							
8:00							
9:00							
10:00							
11:00							
12:00 pm							
1:00							
2:00							
3:00							
4:00							
5:00 pm							
6:00							
7:00							
8:00							

Signature: _____ (signature on file)
Lucas DeHerrera, Senior Land Use Planner
Department of Planning and Development

Date: June 14, 2012

LJD/drm

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EXHIBIT B

The Thornton Creek watershed is the most extensively developed of Seattle's five major watercourse basins. Historically the stream was heavily forested, until substantial logging began in 1882 (Trotter 2002). Urban growth coupled with railroad expansion improved the transport of lumber, and by 1910 most of the timber had been logged from the Thornton watershed (Trotter 2002). The subsequent development of the watershed occurred primarily between the 1920s and 1950s. By 1950, 80 percent of property parcels were developed, and development continued through the 1980s (King County 2005b). Today, 53 percent of the land use in Thornton Creek watershed is residential, 26 percent is dedicated to roads and rights-of-way, and 8 percent is commercial and industrial (Figure 28; Map 37 in the map folio accompanying this report). Only 9 percent of the watershed area is park land or vacant land (Alberti et al. 2004).

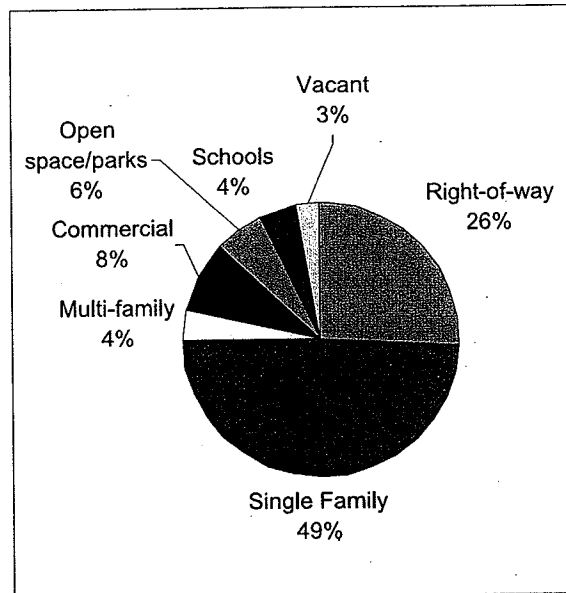


Figure 28. Land uses in the Thornton Creek watershed.

Fifty-nine percent of the Thornton Creek watershed is covered by impervious surfaces such as roads, buildings, and parking lots, which restrict infiltration of stormwater and increase the rate and volume of stormwater runoff. Sixty-two percent of the area served by formal stormwater drainage systems is covered by impervious surfaces. The south branch of the watercourse contains the highest amount of impervious coverage (65 percent), which is associated with the large commercial area at Northgate. Willow Creek, a tributary of the south branch, and the Thornton Creek main stem have the lowest degree of impervious coverage (50 percent and 54 percent, respectively).

In areas with formal drainage systems, stormwater runoff enters a pipe or ditch and is quickly carried to a watercourse, causing large amounts of water to be discharged to the watercourse over a short time period.

Watershed-Scale Conditions

Thornton Creek Hydrology

Thornton Creek flows throughout the year, with mean annual flows of 13.0 and 12.1 cubic feet per second (cfs) for water years 2004 and 2005, respectively (measured at the mouth). The peak flows recorded for water years 2004 and 2005 were 539 cfs and 129.5 cfs, respectively (based on 15-minute data), and the 7-day low flows were 3.9 and 3.6 cfs, respectively (Figure 29; U.S. Geological Survey [USGS] gauge data). The north branch may illustrate stream flows more accurately, as a high-flow bypass at Meadowbrook Pond can dampen storm flow peaks at the mouth of Thornton Creek. The north branch of Thornton Creek had mean annual flows of 5.2 and 4.1 cfs for water years 2004 and 2005, respectively, with peak flows of 204.5 and 106.6 cfs, respectively (based on 15-minute data; Figure 30; USGS gauge data).